
United States
Circuit Court of Appeals

For the Ninth Circuit.

JUNG YEN LOY,

Appellant,

vs.

EDWARD W. CAHILL, as Commissioner of Im-
migration and Naturalization for the Port of
San Francisco,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
States for the Northern District of California,
Southern Division.

FILED

1935

PAUL F. BARTLEY

No. 7967

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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ATTORNEYS.

For Appellant:

STEPHEN M. WHITE,
550 Montgomery Street,
San Francisco, California.

For Appellee:

U. S. ATTORNEY,
San Francisco, California.

In the Southern Division of the United States District Court, Northern District of California.

No. 21890-K.

JUNG YEN LOY,

Appellant,

vs.

EDWARD W. CAHILL, as Commissioner of Immigration for the Port of San Francisco,
Appellee.

PRAECIPE.

To the Clerk of said Court:

Sir:

Please issue copies of following papers for transcript on appeal:

1. Petition for Writ of Habeas Corpus.
2. Order to Show Cause.
3. Return to Order to Show Cause.

4. Respondent's excerpts of Testimony from the Original Record.
5. Order denying Petition for Writ of Habeas Corpus.
6. Notice of Appeal.
7. Petition for Appeal.
8. Assignment of Errors.
9. Order Allowing Appeal.
10. Order Transmitting Original Immigration records filed as exhibits.
11. Citation on Appeal.
12. Praecipe.

STEPHEN M. WHITE,
Attorney for Appellant.

[Endorsed]: Filed Aug. 27, 1935. [1*]

In the Southern Division of the United States District Court, in and for the Northern District of California, Second Division.

No. 21890-K.

In the Matter of

JUNG YEN LOY,

on Habeas Corpus;

No. 34163/5-22; ex SS President Hoover,
July 6, 1934.

PETITION FOR WRIT OF HABEAS
CORPUS.

*Page numbering appearing at the foot of page of original certified Transcript of Record.

To the Honorable, the Southern Division of the
United States District Court, for the Northern
District of California:

The petition of Jung Goey Fook respectfully
shows:

I.

That he is a Chinese person, who is the foreign
born son of a native born citizen of the United
States.

II.

That he originally came to the United States in
1909, and, at that time, was found and conceded by
the United States Immigration authorities to be a
citizen of the United States, by virtue of being
the foreign born son of a native citizen of the
United States (Section 1993 of the Revised Stat-
utes); that thereupon he took up his residence in
the United States and that he has ever since resided
and remained in the United States save for the
following trips to China: departed in 1913, and re-
turned in 1914; departed in 1921, and returned in
1922; departed in 1923, and returned in 1925; de-
parted in 1931, and returned in July, 1934; that
incident to his departure on and return from each
of said trips, he was examined by the United States
Immigration authorities as to his citizenship and,
as a result, it was found and conceded by the said
immigration authorities on each [2] of the occasions,
aforesaid, that he was a citizen of the United States,
by virtue of having proved, on each of said oc-

casions, that he was the foreign born son of a native born citizen of the United States.

III.

That, while in China in the year of 1913, he married a Chinese person by the name of Ho Shee; that on the 28th day of October, 1924, there was born to him and to his wife a son by the name of Jung Yen Loy.

IV.

That on the 6th day of July, 1934, the said Jung Yen Loy arrived in the Port of San Francisco, California, and, thereupon, applied to the United States Immigration authorities for admission into the United States; that his application for admission was based upon the ground that he is a citizen of the United States, in that he is the son of a citizen of the United States and that his father resided in the United States prior to his birth (Section 1993 of Revised Statutes).

V.

That the application for admission of the said Jung Yen Loy was heard by a Board of Special Inquiry, which was convened by the Commissioner of Immigration and Naturalization for the Port of San Francisco, and, as a result, the said Board of Special Inquiry found and decided that the said Jung Yen Loy was not a citizen of the United States for the reason that his alleged father, who is your petitioner, was not a citizen of the United States; that an appeal was taken from the decision of the

Board of Special Inquiry to the Secretary of Labor with the result that the Secretary of Labor affirmed the excluding decision of the Board of Special Inquiry and ordered the said Jung Yen Loy deported to China.

VI.

That the said Jung Yen Loy is now in custody of Edward W. [3] Cahill, as Commissioner of Immigration and Naturalization for the Port of San Francisco, at Angel Island, County of Marin, State and Northern District of California, Southern Division thereof, and the said Edward W. Cahill, acting under the orders of the Secretary of Labor, has given notice of his intention to deport the said Jung Yen Loy to China on the SS President Hoover, which sails from the Port of San Francisco, California, on the 2nd day of November, 1934.

VII.

That the Board of Special Inquiry and the Secretary of Labor, in excluding him from admission into the United States and in holding him in custody so that his deportation may be effected, are acting in excess of the authority and power committed to them by the statutes in such cases made and provided for and are unlawfully confining, imprisoning and restraining the said Jung Yen Loy, hereinafter referred to as the "detained" in each of the following particulars, to-wit:

1. That, at the hearing before the Board of Special Inquiry, there were introduced in evidence

all of the immigration records relating to Jung GoeY Fook, who is your petitioner and the father of the detained; that the said records disclose that the said Jung GoeY Fook first came to the United States in August, 1909, when he applied for admission under the status of a citizen of the United States, claiming to be the son of Jung Foo Wan, a native born citizen of the United States; that, as a result of a hearing before the immigration authorities, it was found and conceded that the said Jung GoeY Fook was the son of the said Jung Foo Wan and the said Jung GoeY Fook was thereupon admitted to the United States as a citizen thereof; that, thereafter, the American citizenship of the said Jung GoeY Fook was confirmed by the United States immigration authorities on the following occasions: in 1913, incident to his departure from the United States for China on a citizen's return certificate, commonly called Form 430 Certificate, issued by the immigration authorities; in 1914, [4] incident to his return to the United States and admission thereto upon presentation of a citizen's return certificate issued by the immigration authorities; in 1921, incident to his departure from the United States for China on citizen's return certificate issued by the immigration authorities; in 1922, incident to his return to the United States and admission thereto on presentation of a citizen's return certificate issued by the immigration authorities; in 1923, incident to his departure from the United States for China on a citizen's return certificate issued by the immigra-

tion authorities in 1925, incident to his return to the United States and admission thereto on presentation of a citizen's return certificate issued by the immigration authorities; in 1933, incident to his departure from the United States for China on a citizen's return certificate issued by the immigration authorities; in July, 1934, incident to his return to the United States and admission thereto on presentation of a citizen's return certificate issued by the immigration authorities; in January, 1932, incident to the application for admission to the United States of Jung Hong Loy, who was admitted to the United States at that time as the result of a hearing before a Board of Special Inquiry, which conceded that the said Jung Hong Loy was a citizen by virtue of having proved that he was the son of your petitioner and that your petitioner was a citizen of the United States; that the prior action of the immigration authorities, in conceding the American citizenship of the said Jung Goey Fook, was prima facie correct, but that the said immigration authorities failed to accord prima facie effect to the prior action of the immigration authorities and thereby denied the detained the full and fair hearing to which he was and is entitled.

2. That, in denying the American citizenship of the said Jung Goey Fook, the Board of Special Inquiry relied upon testimony of the detained to the effect that his father, the said Jung Goey Fook, was [5] not the son of Jung Foo Wan, whom the immigration authorities found to be the father of the

said Jung Goey Fook on the occasion of his application for admission in 1909; that the testimony of the detained as to the paternity of his father, the said Jung Goey Fook, was based upon information, which the detained claimed was furnished by his mother; that the testimony of the detained being hearsay could not, as a matter of law, serve to overcome the prima facie effect of the action of the immigration authorities in finding and conceding that the said Jung Goey Fook was the son of the said Jung Foo Wan on the occasion of the application for admission to the United States of the said Jung Goey Fook in 1909; that the Board of Special Inquiry accorded controlling effect to the hearsay testimony of the detained and thereby acted manifestly unfair.

VIII.

That your petitioner has filed herewith as Exhibit "A" a copy of the Findings and Decision of the Board of Special Inquiry and makes the same a part of this petition with the same force and effect as if set forth in full herein; that he also files as Exhibit "B" a copy of the brief of Washington Counsel filed before the Secretary of Labor in behalf of the detained and makes the same a part of this petition with the same force and effect as if set forth in full herein.

IX.

That the detained is in detention as aforesaid, and for said reason is unable to verify this petition; that your petitioner, in behalf of the detained and

in his own behalf, verifies this petition, for and as the act of the detained.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner [6] of Immigration and Naturalization for the District of San Francisco, commanding and directing him to hold the body of the said detained within the jurisdiction of this Court, and to present the body of the said detained before this Court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into to the end that the said detained may be restored to his liberty and go hence without day.

Dated at San Francisco, California, November 1, 1934.

STEPHEN M. WHITE,
Attorney for Petitioner. [7]

United States of America,
State of California,
City and County of San Francisco—ss:

JUNG GOEY FOOK, being first duly sworn, deposes and states as follows:

That he is the petitioner named in the foregoing petition; that the same has been read and explained to him and he knows the contents thereof; that the same is true of his own knowledge except as to those matters which are therein stated on his information and belief, and as to those matters he believes it to be true.

(Sgd) JUNG GOEY FOOK.

may have been placed for deportation by the said Commissioner of Immigration and Naturalization, are hereby ordered and directed to retain the said Jung Yen Loy, within the custody of the said Commissioner of Immigration and Naturalization, and within the jurisdiction of this Court until its further order herein.

Dated at San Francisco, California, November 1, 1934.

(Sgd) FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Nov. 1, 1934. [9]

[Title of Court and Cause.]

RETURN TO ORDER TO SHOW CAUSE.

Comes now EDWARD W. CAHILL, as District Commissioner, United States Immigration and Naturalization Service, port of San Francisco, California, through Arthur J. Phelan, as District Law Officer of the United States Immigration and Naturalization Service at said port, regularly assigned hereunto by said District Commissioner, and for cause why a writ of habeas corpus should not issue herein, shows:

I.

That the person (hereinafter called "said alien") in whose behalf the petition for writ of habeas corpus was filed, arrived at the Port of San Francisco, California, upon a vessel which brought said alien from a foreign port.

II.

That said alien was upon said arrival at the port of San Francisco, as aforesaid, duly inspected by an immigrant inspector of the United States and was duly detained by said immigrant inspector for examination by a Board of Special Inquiry in relation to the right of said alien to land in the United States.

III.

That thereafter a Board of Special Inquiry, duly and regularly appointed and organized, duly and regularly held a hearing as provided by the immigration laws of the United [10] States to determine whether said alien should be allowed to land in and enter the United States, and upon said hearing said Board decided adversely to the admission of said alien into the United States.

IV.

That thereafter said alien appealed from the decision of said Board of Special Inquiry as aforesaid, to the Secretary of Labor.

V.

That thereafter said appeal was considered by the Secretary of Labor solely upon the evidence adduced before the Board of Special Inquiry, and upon that consideration of said evidence it was decided and ordered by the Secretary of Labor that the decision of the Board of Special Inquiry excluding said alien from the United States be affirmed.

VI.

That the complete original record of said hearing

before the Board of Special Inquiry and of said appeal to the Secretary of Labor and of all proceedings in connection therewith, including the decisions of the Board of Special Inquiry and of the Secretary of Labor, is filed herewith and annexed hereto and made a part hereof as Respondent's Exhibits "A", "B", "C", "D", "E", "F", "G", "H", "I", "J" and "K".

VII.

That for the convenience of this Court there is also filed herewith and annexed hereto and made a part hereof as Respondent's Exhibit "L" excerpts of testimony from the original immigration record referred to in paragraph VI hereof.

VIII.

That by reason of the premises Respondent Edward W. [11] Cahill, as District Commissioner, United States Immigration and Naturalization Service for the port of San Francisco, California, now detains said alien for deportation to the country whence said alien came, in execution of the final decision, as aforesaid, of the Board of Special Inquiry and of the Secretary of Labor.

WHEREAS, respondent prays that the petition for writ of habeas corpus herein be denied.

ARTHUR J. PHELAN,

District Law Officer, as aforesaid, hereunto authorized for and on behalf of Edward W. Cahill, District Commissioner, United States Immigration and Naturalization Service for the Port of San Francisco, California. [12]

[Title of Court and Cause.]

RESPONDENT'S EXCERPTS OF TESTI-
MONY FROM THE ORIGINAL RECORD.

The witnesses herein are:

JUNG YEN LOY, the applicant, said to have been born in China, October 28, 1924 and has never been in the United States.

JUNG GOEY FOOK, alleged father of the applicant, 41 years of age, born in China and first admitted to the United States in September, 1909. He was in China from October, 1913 to July, 1914; from February, 1921 to June, 1922; from December, 1923 to April, 1925. and from January, 1933 to July, 1934.

The applicant has been denied admission into the United States by a Board of Special Inquiry, and on appeal by the Secretary of Labor on the ground that the evidence does not satisfactorily establish that his alleged father Jung Goey Fook is a citizen of the United States.

There are set forth below, from the original immigration record, some of the testimony upon which the administrative decision is based.

I.

JUNG GOEY FOOK testified in connection with the present application on July 21, 1934, as follows:

“Q. Please describe your parents?

A. My father is Jung Foo Wan or Jung Gin Bing. [13] He died in 1917 at Mason City, Iowa; my mother is Wong Shee, she died when

(Testimony of Jung Goey Fook.)

I was very young, in China. I don't remember what year.

Q. Was either of your parents married more than once?

A. Yes, my father was married three times. My mother was married only once.

Q. Which of your father's wives was your mother?

A. His first wife.

Q. Please state what you know about your father's other two wives?

A. The second one's name was Leung Shee; she is dead; I don't remember when she died. His third wife was Jew Shee, about 50 years old, now living at the Chew Young Village.

Q. About how old were you when your mother died?

A. (After long hesitation) I was 10 or 11 years old.

Q. About how old were you when your father's second wife died?

A. When I was 17 or 18 years old.

Q. Did your father ever have any wives other than those you mentioned?

A. No.

Q. Were the second and third wives of your father ever married more than once?

A. No.

Q. Did you ever have any adoptive parents?

A. No.

(Testimony of Jung Goey Fook.)

Q. Were Jung Foo Wan and Wong Shee your own blood parents?

A. Yes.

Q. Is there anyone now living in your native village who might be construed in any as being an adoptive parent or godparent or foster parent of yours?

A. I am not the adopted son of anyone other than my own parents, except that my stepmothers called me son, as usual and I called them (stepmothers) 'Ah Neung' meaning mother. That is all."

(Respondent's Exhibit "A", p. 24).

JUNG YEN LOY testified in this connection on July 20, 1934, as follows:

"Q. What are the names of your father's parents?

A. I know his marriage name, Jung Wing Hong. I don't know his other name. He is 66 years old living in my home village my grandmother is Young Shee, I don't know her age—she is much younger than my grandfather, she has natural feet, living with my grandfather.

Q. Was either of your father's parents ever married more than once?

A. He was married twice. I do not know his first wife's name; she is dead.

Q. Which of his wives is the mother of your father?

(Testimony of Jung Yen Loy.)

A. The first wife.

Q. How do you know that your paternal grandfather is living?

A. Because he is home in my village. [14]

Q. When did you last see him there?

A. I was in his home the day before I left the home village for Hongkong.

Q. Was your father also there?

A. No, I went there alone.

Q. Was your paternal grandfather ever in the U. S.?

A. Yes.

Q. When did he last return to China from the U. S.?

A. I don't know how many years he has been back but I was six or seven years old when he went home and he has been home ever since.

Q. Have you ever heard of anyone named Jung Foo Wan?

A. (After long hesitation) (Applicant starts to cry) Jung Wing Hong is my real grandfather; this Jung Foo Wan is the one who is supposed to be because my father came to the United States as Jung Foo Wan's son. I am not supposed to mention it. I have never seen Jung Foo Wan nor his wife and I understand Jung Foo Wan is dead. My father bought the paper of one of Jung Foo Wan's sons and I was told not to mention that.

Q. How do you know all this?

(Testimony of Jung Yen Loy.)

A. My mother told me and my mother instructed me not to say.

Q. Did your father also tell you what to say, coming over on the boat from China?

A. No.

Q. Did you ever have any papers on which was written what you were supposed to say?

A. I had no papers—only what my mother told me to say.”

(Id. p. 16).

“Q. What does your real grandfather do for a living?

A. He has no occupation.

Q. How frequently did you see him while your father was last in China?

A. Quite frequently—not every day—maybe every other day.

Q. Did your father go to his house while he was last in China?

A. Yes, also quite often.

Q. Have you always understood that Jung Wing Hong was your real grandfather?

A. Yes.

Q. About how long ago did you first learn that your father came to the United States as the son of Jung Foo Wan?

A. Just a few days before I left home for this country.

Q. Who was the first to tell you about it?

(Testimony of Jung Yen Loy.)

A. My mother.

Q. Before that, did you ever know that Jung Foo Wan was supposed to be your grandfather?

A. No.

Q. Did your mother tell you many times to say that Jung Foo Wan was your make-believe grandfather?

A. I don't know how many times but it was several times between my father and my mother.

Q. Did you have to repeat it after them when they told you what to say? [15]

A. No, but they told me to be careful and remember this."

* * * * *

"Q. (Showing photograph of Jeong (Jung) Foo Wan attached to receipt for C. I. dated June 20, 1916, in file No. 15322/4-27). Do you recognize this picture?

A. Yes, this is a photograph of Jung Foo Wan, my make-believe grandfather.

Q. Did you ever see his photograph anywhere in China?

A. Yes, my father showed me a picture that looked like this just a few days before I left home.

Q. Was there ever a picture of him hanging on the walls of your house?

A. No.

Q. Had you ever seen a picture of Jung Foo Wan before that?

(Testimony of Jung Yen Loy.)

A. No.

Q. Had you ever been to Jung Foo Wan's house before coming to the U. S.?

A. No.

Q. Do you know where his house is?

A. His house is located on the third space in the first row at the north of my village.

Q. What persons lived in that house while your father was last in China?

A. Just Jung Foo Wan's third wife and her son Jung Bock Woey.

Q. What is Jung Bock Woey's occupation?

A. He is still attending school in my home village. It is the same school that I attended.

Q. Did any persons besides Jung Foo Wan's third wife and her son Jung Bock Woey live in the house on the third space in the first row at the north of your village while your father was last in China?

A. Yes, Jung Goey En's family occupied the north side of that house; Jung Goey Fong's family occupied the south side of that house, but Jung Tye Dow's family is supposed to live in that house too. I was told to say that his family is occupying the north side of that house in partitioned room, and that my supposed grandmother and her son, occupied the north side of the parlor in another partitioned room. Actually there are only three families because Jung Tye

(Testimony of Jung Yen Loy.)

Dow's family is living in the fourth house, first row at the north of my village."

(Id. pp. 18 and 19).

"Q. Have you ever called Jung Foo Wan's wife 'grandmother'?

A. I call her 'Hoo', meaning elderly lady. I have never called her 'grandmother'. I only have one paternal grandmother."

(Id. p. 23). [16]

II.

JUNG LEN LOY testified in connection with the present application on July 20, 1934, as follows:

"Q. How many real brothers and sisters has your father? Or how many sons has your real grandfather Jung Wing Hong?

A. He has three sons, including my father. They are: Jung Goey Ngit, and my father, Jung Goey Fook, the oldest one, Jung Goey Seuk, but the man who is supposed to be my grandfather Jung Foo Wan, has only two sons, namely: Jung Gock Woey and Jung Bock Woey. One is 22 years old and one is 19, both living in the home village. These two sons are by his third wife. I don't know anything about the other two wives. That is the way I was told by my mother, but for me not to mention them.

Q. Do you know if any other persons besides your father ever came to the United States as make-believe sons of Jung Goo Wan?

(Testimony of Jung Len Loy.)

A. A man named Jung Goey Fong, his marriage name is Jung Hoy Lin; and a man named Jung Goey Gay, his marriage name, Jung Hoy In; and a man named Jung Gock Hoy, also known as Jung Goen En; and there is Jung Goey Ngit, marriage name: Jung Hoy Sin. Jung Goey Seuk has never been to the U. S. and is still single. All these people came as the sons of Jung Foo Wan.

Q. Whose sons are they really?

A. I don't know the parents of these people but they all live in my home village.

Q. Do you know anyone named Jung Tye Dow?

A. Yes, his marriage name is Jung Sick Loy. He is another one who came as the son of Jung Foo Wan.

Q. Who are Jung Tye Dow's real parents?

A. He is the son of Jung Hoy Tung, from my village.

Q. Has Jung Tye Dow any real brothers or sisters?

A. He has no brothers but has two sisters.

Q. Who are they?

A. They are Jung Lew Yee and I don't know how old she is but she is married. The other is Jung Lew Suey, a few years older than I am and now living in my village.

Q. Has your father any real sisters?

A. No, but Jung Foo Wan has a daughter

(Testimony of Jung Len Loy.)

named Jung Suey Lin, she is married and now living in Wong Village.

Q. (Showing photograph of Jeong (Jung) Tye Dow attached to form 430 dated March 4, 1932, in file 33062/5-8). Who is he?

A. He is Jung Tye Dow, the son of Jung Hoy Tung.

Q. What did your mother tell you to tell us about this man?

A. Mother told me to say he was my sixth uncle, but he is not really my sixth uncle, he is the son of Jung Hoy Tung.

Q. Have you ever seen Jung Tye Dow?

A. Yes.

Q. For how long and when was he last in China?

A. I don't remember when he got to China but he [17] returned to this country last year. That was the first part of the years.

Q. Where did he live when he was last in China?

A. He lived in the fourth house of the first row at the head of my village.

Q. Have you ever been in his house?

A. Yes, once in a great while."

(Id. p. 17).

"Q. What family has Jung Tye Dow. Please tell us his real family and what you were you supposed to say about his family?

(Testimony of Jung Len Loy.)

A. He has a wife and one son, that's true. The boy is about two years old—name is Jung Wee Sin.

Q. What persons besides his wife and son live in the same house with Jung Tye Dow just before he came to the U. S. last?

A. His parents and sister, Jung Lew Suey."

* * * * *

"Q. Are both of your father's real brothers Jung Goey Ngit and Jung Goey Suek married?

A. My uncle Jung Goey Ngit is married but the other is single.

Q. Where is Jung Goey Ngit now?

A. He is here in this country but I don't know his address.

Q. When was he last in China?

A. I don't remember when.

Q. Do you remember ever having seen him?

A. Yes.

Q. About how old were you when you last saw him?

A. I don't know.

Q. How did he come to the United States?

A. I don't know how he got here.

Q. Were you supposed to tell us that he was in the United States?

A. No, nobody mentioned anything to me about him, but I knew he was in this country.

Q. How do you know he is in this country?

(Testimony of Jung Len Loy.)

A. I am not sure if he is in this country—I know he is abroad.

Q. Has Jung Goey Ngit any family living in your native village?

A. Just a wife—no children.

Q. In what house in your native village does his wife live?

A. She is living in the same house where my grandfather Jung Wing Hong lives—it is the fourth house in the fifth row counting from the head.

Q. Name all of the persons who lived in that house while your father was last in China.

A. My grandparents, Jung Wing Hong and his wife: my father's brother Jung Goey Seuk; they occupied the north side of the house. My aunt Jung Goey Ngit's wife, she occupied the south side of the house. That is all.

Q. Did any other persons live in that house at any time while your father was last in China?

A. No."

(Id. page 18). [18]

"Q. When did you first learn that you were supposed to say when you arrived here, that your father had brothers besides June Goey Ngit and Jung Goey Seuk?

A. My father told me all about them about 3 or 4 days before I left home.

Q. Before that, had you ever known that

(Testimony of Jung Len Loy.)

your father had any brothers besides Jung Goey Ngit and Jung Goey Seuk?

A. No, I only knew my two uncles, namely Jung Goey Ngit and Jung Goey Seuk.

Q. Before that, had you ever known that Jung Foo Wan had any children at all besides Jung Gock Woey, Jung Bock Woey and Jung Suey Lin?

A. No. To my knowledge, he had only three children—those three children that I named.

Q. Were any of the real children of Jung Foo Wan ever in the United States?

A. Yes, his oldest son, Jung Gock Woey only.

Q. When did Jung Gock Woey first come to the U. S.?

A. I have no recollection as to when he came, but I know I have seen him.

Q. Was Jung Gock Woey ever married?

A. No.

Q. (Showing photograph of Jung Gock Woey attached to receipt for C. I. dated March 26, 1930 in file No. 28853/4-11). Do you recognize this picture?

A. Yes, that is the picture of Jung Gock Woey, the real son of Jung Foo Wan.”

(Id. page 19).

“Q. Why do Jung Goey En’s and Jung Goey Fong’s families live in Jung Foo Wan’s house if they are only make-believe sons of his?

(Testimony of Jung Len Loy.)

A. That is the way my father told me to say.

Q. What is the actual truth in regard to that?

A. I don't know.

Q. Have you ever seen any member of Jung Goey Fong's and Jung Goey En's families?

A. Yes.

Q. Do you know where they actually live then?

A. They are living in the third house in the first row. I don't know—that's the way my father told me to say and I am going to say only just what he told me.

Q. You know you should tell the truth—don't you?

A. Yes, I am telling you the truth as far as I am concerned—that is what my father told me to say.

Q. What family has Jung Goey En?

A. Three sons, no daughters, and a wife.

Q. Is that his real family or his make-believe family?

A. That is what my father told me to say.

Q. Can you give the names, ages and present whereabouts of the members of Jung Goey En's family?

A. His wife is Hoo Shee; the sons are Jung Gim Shem about 14, Jung Gen Lin, 11 years old, and Jung Shem Ott, 10 years old, all living in the third house, first row from the head.

(Testimony of Jung Len Loy.)

Q. Have you actually, personally seen all of those persons there? [19]

A. Yes. They are my school mates, except Jung Shem Ott.

Q. Where is Jung Shem Ott?

A. He is at his home.

Q. Does he go to school yet?

A. No, he does not.

Q. Have you told us about Jung Goey En's family what you are supposed to tell?

A. Yes.

Q. Did you know anything about his family before your father told you several days before you left for the United States?

A. Yes.

Q. What did you know about them before your father told you about them?

A. I know they are sons of Jung Goey En.

Q. Were there ever any girls in his family?

A. No, there isn't any.

Q. What family has Jung Goey Fong?

A. He has a wife and one son, no daughter, and his wife is Fong Shee; the son is Jung Jock Ming, 12 years old.

Q. Did Jung Goey Fong ever have any other children?

A. No.

Q. Have you told us about Jung Goey Fong's family the way you were supposed to tell us on instructions from your father?

(Testimony of Jung Len Loy.)

A. Yes.

Q. Have you ever seen Jung Goey Fong?

A. No. I was born after he came to this country.

Q. How do you know that?

A. Father told me so.

Q. Before your father had told you of Jung Goey Fong's family, had you ever known anything about Jung Goey Fong or his family?

A. No.

Q. Do you mean to say that Jung Goey Fong actually has no family in China?

A. No, family—he never had any family that I know of.

Q. Have you any idea who is the real father of Jung Goey En?

A. I don't know.

Q. Have you any idea who is the real father of Jung Goey Fong?

A. I don't know.

Q. Did you ever hear of any one named Jeong (JUNG) Toon Way or Jung Hon Puey?

A. No. (Changes) Yes, that is my fifth uncle's name,—my supposed fifth uncle's name.

Q. Who is Jung Toon Way (Tin Woey) really?

A. That is the real son of Jung Foo Wan—I forgot to mention him. He really has three sons and one daughter.

(Testimony of Jung Len Loy.)

Q. Which of Jung Foo Wan's sons is he?

A. He is the oldest one.

Q. Were you supposed to say that, or is that the actual truth?

A. That is the actual truth. I was supposed to say that Jung Tin Woey is also my father's brother, the fifth, but that is not so.

Q. Is Jung Toon Way married?

A. Yes.

Q. What family has he? [20]

A. He has a wife and two sons, and this is the truth.

Q. What are their names, ages and present whereabouts?

A. I don't know his wife's name, but she is 20-odd years old; the sons are: Jung Ying Hong, 7 years old, and Jung Ying Ngip, 6 years old, all now living in my native village.

Q. In which house in your native village do they live?

A. The sixth house on the fifth row from the head or north.

Q. For how long have you known of Jung Tin Woey and his family?

A. I have known him for a long time.

Q. Where is Jung Tin Woey now?

A. He is in this country.

Q. When was he last in China?

A. I don't remember. A long time ago.

Q. Do you remember having seen him?

(Testimony of Jung Len Loy.)

A. Yes.

Q. Did you ever see a picture of him in China?

A. No. (Changes) Yes.

Q. Where did you see this picture?

A. My father showed it to me 3 or 4 days before I left home.

Q. How did your father happen to show you Jung Tin Woey's picture then?

A. He showed it to me because it was for me to remember that picture and it is supposed to be my fifth uncle's picture.

Q. Do you mean that you were shown that picture so that you would remember what Jung Tin Woey looked like in order to identify him if you were shown his picture after your arrival in the U. S.?

A. Yes, and my father told me to be sure and not make any mistake.

Q. Before your father told you that Jung Tin Woey was supposed to be your fifth uncle, had you ever known about it?

A. No.

Q. (Showing photograph of Jeong Toon Way (Jung Tin Woey) attached to duplicate form 430 dated September 28, 1927 in file 27888/18-9). Do you recognize this picture?

A. No.

Q. Does it look like anyone whose picture you have ever seen?

A. I don't remember—my father showed me

(Testimony of Jung Len Loy.)

some pictures but I can't remember who they are.

Q. Did your father also tell you that your supposed fifth uncle had a family?

A. My father told me that he had two sons, and he actually has two sons.

Q. Does your supposed fifth uncle have any girls?

A. No, just two sons.

Q. In which house in your native village were you born?

A. In the sixth house, fifth row from the head.

Q. Have you ever lived in any other house in China?

A. No.

Q. Is that what you are supposed to say or the actual truth?

A. It is the actual truth.

Q. What persons lived in the same house with you while your father was last in China?

A. My uncle—my supposed uncle Jung Goey Gay, I mean, Jung Goey Gay's family, which consisted of his wife [21] and two sons, no daughter, and my supposed fifth uncle Jung Toon Way's family, my father, my mother and my second and fourth brothers, that is all.

Q. Who is the real father of your supposed uncle Jung Goey Gay?

A. I don't know his father.

(Testimony of Jung Len Loy.)

Q. When did you first learn that Jung Goey Gay was supposed to be your uncle?

A. The same time as I learned of the other supposed uncles.

Q. Before that, had you ever known that Jung Goey Gay was supposed to be your uncle?

A. No.

Q. Have you ever seen your supposed uncle Jung Goey Gay?

A. Yes, a long time ago.

Q. Did you ever see a picture of him?

A. Yes, my father showed me his picture about 3 days before we left for the U. S.

Q. Before you first heard that Jung Goey Gay was supposed to be your uncle, had you ever heard of his family?

A. Yes.

Q. In what way had you heard of them?

A. Because their family lives in the same house with us.

Q. Are you positive that your father and Jung Goey Gay are not actually brothers?

A. Yes, they are not brothers.

Q. Do you know if they are related in any way?

A. I don't know just how we are related—I know we are close, but Jung Goey Gay is not from the same father or the same mother as my father.

Q. Can you give your supposed uncles in

(Testimony of Jung Len Loy.)

numerical order according to their supposed ages?

A. They are Jung Goey En, or Jung Gock Hoy, first supposed uncle; my father is supposed to be the second one; Jung Goey Gay or Jung Hoy In, supposed third uncle; Jung Goey Fong or Jung Hoy Lin, supposed fourth uncle; and Jung Tin Woey or Jung Hong Puey, supposed fifth uncle; and Jung Tye Dow, or Jung Sick Loy, supposed sixth uncle; and Jung Gock Woey, supposed seventh uncle; and Jung Bock Woey, supposed eighth uncle. There is an Aunt, that is, my supposed Aunt, Jung Suey Lin, she is supposed to come between the fifth and sixth uncles.

Q. Now please name again your father's real parents and their family.

A. My real paternal grandfather is Jung Wing Hong and my step-mother Young Shee. My own grandmother is dead. My paternal grandfather's real children are: My father, Jung Goey Fook, or Jung Hoy Nop; the oldest, Jung Goey Ngit, or Jung Hoy Sin, second real uncle, Jung Goey Seuk, no other name, third real uncle.

Q. How do you address your uncle, your real uncles Jung Goey Ngit and Jung Goey Seuk?

A. I address Jung Goey Ngit, as second uncle, and Jung Goey Seuk as third uncle.

Q. Please name again the real children of Jung Foo Wan.

(Testimony of Jung Len Loy.)

A. They are: Jung Tin Woey, Jung Gock Woey and [22] Jung Bock Woey; and the daughter, Jung Suey Lin.

Q. How do you address them?

A. Uncle Tin, Uncle Gock, Uncle Bock, and Aunt Lin.

Q. How do you address Jung Goey En, Jung Goey Gay, Jung Goey Fong and Jung Tye Dow?

A. I call all of them uncle, the name as I address anyone who lives in my village of the same generation as my father. That is, my mother told me that if I met anyone of my generation, I should call him 'brother' or 'elder brother'.

Q. Have you always used a special distinguishing term to address your real, blood uncles as indicated by numbers?

A. Yes.

Q. Would you ever address any person not your blood uncle in that manner?

A. No."

(Id. pages 20, 21, 22 and 23).

"Q. What do you call Jung Tye Dow's real parents, Jung Hoy Tung and his wife?

A. I call them uncle and aunt, because Jung Hoy Tung is the same generation as my father. I should have said a while ago when I address Jung Tye Dow, I address him as 'elder brother'.

Q. About how large is your native village?

(Testimony of Jung Len Loy.)

A. We have sixty buildings in my village including one ancestral hall, three social halls and one lantern house, besides three towers.”

* * * * *

“Q. Have any of the persons that you have mentioned today as living in your native village, moved from one house to another, while your father was last in China?

A. No.

Q. (Showing) photograph of Jeung Goey Eng attached to duplicate form 430 dated November 25, 1923 in file No. 24108/5-6). Whose picture is this?

A. My supposed Uncle Jung Goey En.

Q. (Showing photograph of Jeong Goey Fung attached to duplicate form 430 dated May 17, 1922 in file No. 22403/6-2). Who is this?

A. My supposed fourth uncle Jung Goey Fong.

Q. (Showing photograph of Jung Goey Gay attached to duplicate form 430 dated November 9, 1926, in file 27487/4-21). Who is this?

A. My supposed third uncle, Jung Goey Gay.”

(Id. p. 23).

II.

JUNG GOEY FOOK testified in this connection on July 21, 1934 as follows:

“Q. How many children did your father have by all of his wives?

(Testimony of Jung Goey Fook.)

A. Eight sons and one daughter.

Q. Please describe all of them? [23]

A. They are: By my mother: Jung Goey En or Jung Gock Hoy, age 44, now in the U. S.; Jung Goey Fook, or Jung Hoy Nop, myself; Jung Goey Gay or Jung Hoy In, 40, in the U. S.; Jung Goey Fong or Jung Hoy Lin, 38, in the U. S.; Jung Tin Woey or Jung Hon Puey, 28, in the U. S.; Jung Suey Lin, my sister, age 36, married and living at the Wong Village, H. P. D.; By my father's second wife: Jung Tye Dow, or Jung Sick Loy, age 24, in the U. S.; Jung Gock Woey, no other names, age 22, in the U. S.; By my father's third wife: Jung Bock Woey, no other names, age 19, living at the Chew Young Village.

Q. Did your father or any of his wives, ever adopt any children?

A. No.

Q. Are all of the persons that you have just named, natural blood children of Jung Foo Wan?

A. Yes.

Q. Were any of them ever adopted by any other person?

A. No.

Q. Did your father ever have any children who died?

A. No.

(Testimony of Jung Goey Fook.)

Q. Have any of your father's children ever been known by any name other than you have just given for them?

A. No.

Q. How many of your father's children, besides yourself, are married?

A. They are all married except Jung Gock Woey and Jung Bock Woey.

Q. Were any of them ever married more than once?

A. No.

Q. What family has Jung Goey En?

A. He has a wife, three sons and no daughter.

Q. What family has Jung Goey Gay?

A. A wife, two sons and no daughters.

Q. What family has Jung Goey Fong?

A. A wife, one son and no daughter.

Q. What family has Jung Tin Woey?

A. A wife, two sons and no daughter.

Q. What family has Jung Tye Dow?

A. A wife, one son and no daughter.

Q. What family has Jung Suey Lin?

A. A husband but no children.

Q. Did any of your father's children ever have any children who died?

A. No.

Q. Did any of them ever have any children who were adopted?

A. No.

(Testimony of Jung Goey Fook.)

Q. Do all of your paternal relatives live in the Chew Young Village, where you were born, when they are in China, except your sister, Jung Suey Lin?

A. Yes."

(Id. p. 25). [24]

"Q. Who lives in the fourth house, fifth row, from the head of Chew Young Village?

A. (After long hesitation): Jung Wing Hong or Jung Mook, his wife and one son.

Q. Please describe those three persons?

A. Jung Wing Hong is 60-odd years old, retired, now living in his house; his wife is Young Shee, 50-odd years old, natural feet, living in the same house; and his son is Jung Ngit, 20-odd years old, now living at—he is not at home—I don't know where he is.

Q. Did any persons besides Jung Wing Hong and his wife, Young Shee, live in the fourth house, fifth row, at the head of your village, at any time during your last visit to China?

A. Yes, Jung Ngit, the son of Jung Wing Hong, is married and his wife lives there also. No one else.

Q. Did Jung Wing Hong ever have any children besides Jung Ngit?

A. Yes, Jung Wing Hong has another son, Jung Goey Seuk, 11 or 12 years old, who is not at home.

(Testimony of Jung Goey Fook.)

Q. Did you see Jung Ngit or Jung Goey Seuk anywhere while you were last in China.

A. No.

Q. Were they in your village at any time while you were last in China?

A. No.

Q. Just where is Jung Ngit?

A. I don't know, he is abroad or elsewhere.

Q. Just where is Jung Goey Seuk?

A. I was told that he is attending school in Canton City.

Q. For how long has he been attending school in Canton City?

A. I don't know.

Q. Was Jung Wing Hong ever in the U. S.?

A. He has been abroad—I don't know if he came to the U. S. or not.

Q. Was Jung Wing Hong ever married more than once?

A. Yes, I think he was married twice.

Q. Which of his wives is Young Shee?

A. His second wife.

Q. Who was his first wife?

A. Fong Shee.

Q. What became of her?

A. She is dead.

Q. About when did she die?

A. More than ten years ago, and less than twenty.

Q. Can you state more definitely just when she died?

(Testimony of Jung Goey Fook.)

A. No.

Q. Isn't it a fact that Jung Wing Hong and Young Shee are your real parents?

A. No.

Q. If anyone were to say that they were your real parents, would that be a mistake?

A. Yes.

Q. Isn't it a fact that Jung Ngit and Jung Goey Seuk are actually your real brothers?

A. No.

Q. Isn't it a fact that Jung Ngit's names are Jung Goey Ngit and Jung Hoy Sin and that he is your real second brother?

A. No. [25]

Q. Isn't it a fact that you and several others fraudulently secured admission to the United States as the sons of Jung Foo Wan, when you are not actually his sons?

A. No.

Q. Is it not a fact that you and Jung Tye Dow are not brothers?

A. No, we are blood half-brothers.

Q. Isn't it a fact that Jung Tye Dow's real parents are Jung Hoy Tung and his wife?

A. No.

Q. Isn't it a fact that the only children that are really Jung Foo Wan's are Jung Tin Woey, June Gock Woey, Jung Bock Woey and Jung Suey Lin?

A. No.

(Testimony of Jung Goey Fook.)

Q. Did you ever show the applicant pictures of any of your alleged brothers who gained admission to the U. S. as such?

A. No.

Q. Did you ever show the applicant any pictures of your alleged father Jung Foo Wan?

A. No.

Q. To your knowledge, has the applicant ever seen any picture of your alleged father, Jung Foo Wan?

A. He may have seen his picture at my brother Jung Goey En's house, because there is a picture of my father at his house.

Q. Was there ever a picture of Jung Foo Wan in your house?

A. No.

Q. Did you ever take a picture of him to your house for just a short period?

A. No.

Q. To your knowledge, has the applicant ever seen any pictures of any of your alleged brothers who gained admission to the United States as such?

A. No.

Q. Did you ever instruct the applicant as to what he should say when questioned by the immigration authorities and what he should not say?

A. No.

Q. Did your wife ever do so?

(Testimony of Jung Goey Fook.)

A. No. We told him to testify according to facts.

Q. Isn't it a fact that you and your wife showed the applicant photographs of those men who had secured admission to the United States as your alleged brothers and that you told the applicant to be careful what he said about them?

A. I told him to testify only according to facts and to be careful.

Q. When did you tell him that?

A. I told him that from time to time.

Q. Did you ever tell the applicant about things that he must be sure not to tell in order to keep from revealing your true status, and the true status of others who secured admission as the sons of Jung Foo Wan?

A. No."

(Id. pages 26 and 27).

H. H. McPIKE, AJZ
United States Attorney,
Attorney for Respondent.

[Endorsed]: Filed Feb. 25, 1935. [26]

District Court of the United States Northern District of California, Southern Division.

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California held at the Court Room thereof, in the City and County of San Francisco, on Saturday, the 18th day of May, in the year of our Lord one thousand nine hundred and thirty-five.

PRESENT: The Honorable WALTER C. LINDLEY, United States District Judge.

No. 21890-S.

In the Matter of

JUNG YEN LOY,

on Habeas Corpus.

This matter having been heretofore submitted on the application for a writ of habeas corpus (by order to show cause), and the same being fully considered, IT IS ORDERED that the application for a writ of habeas corpus be and the same is hereby DENIED; that the petition be and the same is hereby DISMISSED; that the order to show cause be and the same is hereby DISCHARGED; and that the applicant, JUNG YEN LOY, be deported by the Immigration Authorities at San Francisco, California. [27]

[Title of Court.]

JUNG YEN LOY,

Appellant,

vs.

EDWARD W. CAHILL, as Commissioner of Immigration and Naturalization for the Port of San Francisco,

Appellee.

NOTICE OF APPEAL.

To the Clerk of the above-entitled Court, to Edward W. Cahill, Commissioner of Immigration and Naturalization, and to H. H. McPike, Esq., United States Attorney, his attorney:

You and each of you will please take notice that Jung Goey Fook, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein on May 18, 1935, denying the petition for a writ of habeas corpus filed herein.

Dated this 24th day of May, 1935.

STEPHEN M. WHITE,

Attorney for Appellant. [28]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Comes now Jung Goey Fook, the petitioner in the above-entitled matter, through his attorney, Stephen M. White, Esq., and respectfully shows:

That on the 18th day of May, 1935, the above-entitled Court made and entered its order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, the appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, for the correction of the errors as complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit thereof, and further, that the said appellant be held within the jurisdiction of this Court during the pendency of the appeal herein, so that he may be produced in execution of whatever judgment may be finally entered herein.

Dated at San Francisco, California, May 24th, 1935.

STEPHEN M. WHITE,

Attorney for Appellant. [29]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Now comes the appellant, Jung Yen Loy, through his attorney, Stephen M. White, Esq., and sets forth the errors he claims the above-entitled Court committed in denying his petition for a writ of habeas corpus, as follows:

I.

That the Court erred in not granting the writ of habeas corpus and discharging the appellant, Jung Yen Loy, from the custody and control of Edward W. Cahill, Commissioner of Immigration and Naturalization at the Port of San Francisco.

II.

That the Court erred in not holding that it had jurisdiction to issue the writ of habeas corpus as prayed for in the petition on file herein.

III.

That the Court erred in not holding that the allegations set forth in the petition for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus. [30]

IV.

That the Court erred in holding that the evidence adduced before the immigration authorities was sufficient, in law, to justify the conclusion of the immigration authorities that Jung Goey Fook, the father of the appellant, was not an American citizen.

V.

That the Court erred in holding that the evidence adduced before the immigration authorities was sufficient, in law, to justify the conclusion of the immigration authorities that Jung Goey Fook, the father of the appellant, obtained admission to the United States, under the status of an American citizen, through fraud.

VI.

That the Court erred in not holding that the immigration authorities acted arbitrarily and unfairly in concluding that Jung Goey Fook, the father of the appellant, was not an American citizen.

VII.

That the Court erred in not holding that the immigration authorities acted arbitrarily and unfairly in concluding that Jung Goey Fook, the father of the appellant, obtained admission to the United States, under the status of an American citizen, through fraud.

VIII.

That the Court erred in holding that the prima facie effect of the prior action of the immigration authorities determining the American citizenship of Jung Goey Fook, the father of the appellant, was overcome by the testimony of the appellant to the effect that his father was not the son of Jung Foo Wan, a native born citizen of the United States, whom the immigration authorities found and con-

ceded to be the father of Jung Goey Fook when the latter was admitted to the United States in 1909.

IX.

That the Court erred in not holding that the prima facie effect of the prior action of the immigration authorities determining [31] the American citizenship of Jung Goey Fook, the father of the appellant, was not overcome by the testimony of the appellant to the effect that his father was not the son of Jung Foo Wan, a native born citizen of the United States, whom the immigration authorities found and conceded to be the father of Jung Goey Fook when the latter was admitted to the United States in 1909.

X.

That the Court erred in not holding that the appellant was not accorded a full and fair hearing before the immigration authorities.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court for the Northern District of California made, given and entered herein in the office of the Clerk of said Court on the 18th day of May, 1935, denying the petition for a writ of habeas corpus, be reversed and that he be restored to his liberty and go hence without day.

Dated at San Francisco, California, May 24th, 1935.

STEPHEN M. WHITE,
Attorney for Appellant.

[Endorsed]: Due service and receipt of copy of the within Notice of Appeal, etc., is hereby admitted this 24 day of May, 1935.

H. H. McPIKE,
Attorney for Respondent.

Filed May 24, 1935. [32]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

It appearing to the above-entitled Court that Jung Goey Fook, the petitioner herein, has this day filed and presented to the above Court his petition praying for an order of this Court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and order of this Court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor,

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the Clerk of the above-entitled Court make and prepare a transcript of all the papers, proceedings and records in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Jung Yen Loy, be and the same is hereby stayed pending this appeal and that the said Jung Yen Loy, be not removed from the jurisdiction of this Court pending this appeal.

Dated at San Francisco, California, May 24, 1935.

(Sgd) CURTIS D. WILBUR,

United States Circuit Judge. [33]

[Endorsed]: Service and receipt of copy of the within Order Allowing Appeal is hereby admitted this 24th day of May, 1935.

H. H. McPIKE,

Attorney for Respondent.

Filed May 24, 1935. [34]

[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL
EXHIBITS.

GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED that the Immigration Records filed as Exhibits herein, may be transmitted by the Clerk of the above-entitled Court to and filed with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit to be taken as a part of the record on appeal in the above-entitled cause with the same force and effect as if em-

bodied in the transcript of record and so certified by the Clerk of this Court.

Dated this 24 day of May, 1935.

(Sgd) CURTIS D. WILBUR,

United States Circuit Judge.

[Endorsed]: Service and receipt of copy of the within Order Transmitting Original Exhibits, is hereby admitted this 24th day of May, 1935.

H. H. McPIKE,

Attorney for Respondent.

Filed May 24, 1935. [35]

[Title of Court and Cause.]

CITATION ON APPEAL.

United States of America—ss.

The President of the United States, to Edward W. Cahill, Commissioner of Immigration and Naturalization, Port of San Francisco, and H. H. McPike, United States Attorney,
GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, State of California, within 30 days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern Dis-

trict of California, wherein Jung Yen Loy, is appellant and you are appellee, to show cause, if any, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Curtis D. Wilbur, United States Circuit Judge for the Southern Division of the Northern District of California, this 24 day of May, 1935.

CURTIS D. WILBUR,
United States Circuit Judge. [36]

[Endorsed]: Due service and receipt of copy of the within Citation on Appeal, is hereby admitted this 24th day of May, 1935.

H. H. McPIKE,
Attorney for Respondent.

Filed May 24, 1935.

District Court of the United States, Northern
District of California.

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 36 pages, numbered from 1 to 36, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of JUNG YEN LOY, Appellant

vs. Edward W. Cahill, as Commissioner of Immigration, etc., No. 21890-K, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Six (\$6.00) Dollars and that the said amount has been paid to me by the Attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 29th day of August, A. D. 1935.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [37]

[Endorsed]: No. 7967. United States Circuit Court of Appeals for the Ninth Circuit. Jung Yen Loy, Appellant, vs. Edward W. Cahill, as Commissioner of Immigration and Naturalization for the Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed August 29, 1935.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.